

129—22.5(8B) Application review process and award of grant funds.

22.5(1) *Period for public comment and validation process.* Rescinded IAB 6/2/21, effective 5/7/21.

22.5(2) *Review committee.* Rescinded IAB 6/2/21, effective 5/7/21.

22.5(3) *Office final decision.* The office will review all applications received by the deadline and otherwise warranting review in accordance with the terms, conditions, and requirements of the NOFA, these rules, and Iowa Code chapter 8B and make a final agency decision regarding whether, to which projects, and in what amount(s) to award grant funds for the installation of broadband infrastructure that facilitates broadband service in targeted service areas at or above the download and upload speeds specified in Iowa Code section 8B.11.

a. In so doing, the office will take into consideration the following factors, in accordance with and in the manner specified by the terms, conditions, and requirements of the NOFA, affording the greatest weight to the factors in subparagraphs 22.5(3) “a”(1), 22.5(3) “a”(2), and 22.5(3) “a”(3), and Iowa Code section 8B.11(4) “a”(6):

(1) The relative need for broadband infrastructure in the area and the existing broadband service speeds, including whether the project serves a rural area(s). Existing broadband service speeds may be determined by reference to the statewide map referenced in rule 129—20.4(8B,427).

(2) The applicant’s total proposed budget for the project, including all of the following:

1. The amount or percentage of local or federal matching funds, if any, and any funding obligations shared between public and private entities.

2. The percentage of funding provided directly from the applicant, including whether the applicant requested from the office an amount less than the maximum amount the office could award pursuant to Iowa Code section 8B.11 and, if so, the percentage of the project cost that the applicant is requesting.

(3) The relative download and upload speeds of proposed projects for all the applicants.

(4) The specific product attributes resulting from the proposed project, including technologies that provide higher qualities of service, such as service levels, latency, and other service attributes as determined by the office.

(5) The percentage of broadband units in the targeted service area(s) forming the basis of the project that will be provided access to broadband service at or above the download and upload speeds specified in Iowa Code section 8B.11 as a result of the project. The number of broadband units in a targeted service area shall be determined by reference to the statewide map referenced in rule 129—20.4(8B,427). Considering this factor is the means by which the office ensures underserved areas within targeted service areas are, to the extent possible, reduced or eliminated.

(6) The proportion of proposed projects that will result in the installation of broadband infrastructure in a targeted service area within which the only broadband service available provides the tier 1 download and upload speeds specified in the definition of targeted service area.

(7) Any other factors deemed relevant by the office as stated in the NOFA.

b. In determining whether, to which projects, and in what amount(s) to award grant funds, the office will not make an award that exceeds the following percentages identified in Iowa Code section 8B.11(5) “a,” “b,” or “c” or 8B.11(6) “b,” whichever is applicable, of any communications service provider’s total estimated allowable project costs for a proposed installation of broadband infrastructure; or meeting the buildout speeds referenced in Iowa Code section 8B.11(1) or 8B.11(6), whichever is applicable.

c. In determining whether a project serves difficult to serve areas and thus qualifies for the 20 percent allocation identified in Iowa Code section 8B.11(7), the office will solely consider whether the project serves one or more targeted service areas within which no provider offers or facilitates broadband service that provides download and upload speeds less than or equal to the tier 1 download and upload speeds specified in Iowa Code section 8B.1(13) “a”(1). In such cases, any funds awarded to the project will be assigned to the 20 percent allocation made by the office. In the event that the 20 percent allocation in Iowa Code section 8B.11(7) is not fully subscribed, the office will be permitted to reallocate any unspent funds to projects that do not serve difficult to serve areas.

22.5(4) *Notice to applicants of decision and right to appeal.* The office shall notify each communications service provider awarded a grant by the office of the office’s decision(s) in accordance

with the terms and conditions of the NOFA. The office will also post such decision(s) online at iowagrants.gov and ocio.iowa.gov/broadband. Unsuccessful applicants are solely responsible for reviewing such websites to determine their award status. Such agency decision(s) shall become final unless, within ten days of such email transmission or posting, an applicant which was adversely affected by a decision of the office files a request for a contested case proceeding pursuant to 129—Chapter 6. Failure to challenge the office’s decision under this rule by filing a request for a contested case within the ten-day period shall waive any claims an applicant may have related to the office’s administration of the process and otherwise be deemed a failure to exhaust administrative remedies.

[**ARC 4098C**, IAB 10/24/18, effective 11/28/18; **ARC 4606C**, IAB 8/14/19, effective 9/18/19; **ARC 5173C**, IAB 9/9/20, effective 10/14/20; **ARC 5658C**, IAB 6/2/21, effective 5/7/21]